

ness trying the same cause; but the difficulty might be relieved by numbering the courts and the causes, and then counsel might restrict their practice to a particular court. Witness objected to jurists of form, as being made of wood and iron, and that the causes were always selected from the class of special jurors. There seemed to have lately been an amalgamation of the special and common jury lists, and between the educational and mental distinction of the two classes. A merely monetary distinction, but that the two classes were not

The common jury of twelve was by no means a matter of right, and witness had made up his mind to take a jury of this kind whenever he could not get a special jury.

The Honorable Roger Taney, Chief Justice of the Supreme Court, and Primary Judge in Equity of the United States, was present. The business of the Court had greatly increased in every respect; the equity business quite as much, if not more, than any other. The amount involved in fourteen cases was some \$1,000,000, and the amount in equity cases was \$120,000. When witness first arrived in the colony (twenty-eight years ago), the

there might be from three to five equity suits, in the year; but going on to 1844-45, he found the number was four; and continuing in the present period, in 1844-45, the number was 340. The number of real suits, but comprehended all cases in equity, such as *rules nisi* motions, questions arising upon the construction of wills, &c. There scarcely could be said to be any arguments in the case of the community business, and such as there were were most unimportant. Witness being engaged in the general business of the Court, and expected to assist in turn in all the jurisdictions, there was the greatest irregularity in the business of the Court.

equity arrangements. Appointments were occasionally broken, from witness being compelled to attend elsewhere. Hearings were interrupted and protracted to an unparalleled degree; and not only was the most excessive delay in the trial of cases occasioned by expenses. The Equity Judge had not, under the present system, any power to give precedence to the equity business over that at common law, and there seemed no disposition to give precedence to the latter. Whenever the two jurisdictions came into collision, the action of the Equity Judge was much distinguished by this compulsory attention to various duties. It was in-

posed to his own arguments and evidence in his mind when he was in the Court several days after the considerable distances apart. (The witness could not recall several remarkable cases as illustrating these inconveniences.) Without a separate Equity Court and Judge, holding regular sittings, witness could see no hope of remedying these evils. He would not be prepared to argue for delay but persons to resist just claims. If the Court of Equity was not carried on in the same building as the Common Law Courts, it should be in an adjacent building, for many purposes, such as for the convenience of witnesses and litigants, and should be expected, for a time at least, to combine their sittings.

tion exclusively to that branch of business. The Equity Judge could easily take appeals from the Chief Commissioner of Inland Revenue as well as ecclesiastical business. The jurisdiction in lunacy was in the Vice-Chancellor's hands. The jurisdiction in real matters (in Equity) might also have been transferred to the Equity Judge. Was in favour of oral evidence being taken by the Equity Judge. The Equity Judge would not be necessary, either, that the latter officer should be in constant attendance on this Court while sitting. He had many more important duties than this, quite sufficient for the occupation of his time. There should be

The appellate tribunal ought, in witness's opinion, to consist of the Chief Justice, a Justice Judge, and the Equity Judge himself. If a separate Equity Court was appointed, and district courts called into operation, then, it would be a check to the common law business as to enable three Judges to get through it. These Judges were at present engaged all the year round without being able to prevent arrests. Even the vacation he had been compelled to devote, to the great extent of his time, to the trial of highway business. Much time was consumed in the protraction of trials and arguments, but witness was not prepared

to say that counsel persisted in lengthening cases to a greater extent than they thought consistent with their duty. The trials were not longer than those of the total number of cases tried in 1859 were, in Sydney 213, and on circuits 64, making 268 in all. The total number of new trials moved for in the same year was 76, and the number granted was 27. Did not think there would be any saving of space by the proposed change in the English practice of moving for new trials by rules nisi.

The Honorable JOHN NODDS DICKINSON, Justice of the Supreme Court: The variety of jurisdictions established in the colonies has rendered the present arrangements very confused, and in the rapid

of the Judges. The judicial business would be much more quickly and efficiently despatched if the Common Law Court was allowed to remain, as at present composed of the Judges of Equity, Judges of the Admiralty, Judges of the Equity business, with jurisdiction in matters of insolvency, intestacy, &c. If there were to be appeals from the decisions of the Equity Judge, they should go to a separate tribunal, composed of the Chief Justice, the Judges of Equity, and the Judges of the Admiralty Judge himself. But, assuming that a competent Equity man would be appointed to the latter office, witness was not quite clear that appeals should

should take precedence with the other Judges' would still be required for the common law business. The labours of the Judges here were, in witness's opinion, the greatest, as most of the Judges in England there were but six weeks vacation here in the year, while in England they got fifteen weeks. The number of terms had been recently increased from four to six. Witness was of this class of men, however, who recommended it, and not from any opinion of his own in its favour. Very few new trials were granted

in proportion to the number moved for. Every possible ground was generally mentioned in the notes of motions, and new trials were frequently granted, having reconsidered the matter, did not trouble the Court with argument upon many of the points. Within the last two years, there had been generally a considerable arrest of jury cases. The verdicts of juries had been generally good, satisfactory, and reasonable, and in the great majority of cases they had been satisfactory to the Court. Thought that trial by jury, as exercised in this colony, was highly satisfactory. Believed that the present practice was better than that of any other colony.

rules nisi. If there was anything frivolous in the notice, the Court could set aside the motion. Witness had twice exercised this power since he exercised here. This power, however, could not be exercised in a case where the grand jury had returned the indictment. The inclination of the Court was to support verdicts, but it did not shut out the unsuccessful party upon the mere assurance of the Judges that there was no ground for a new trial. That general rule here was not to set aside a verdict, when there was evidence on both sides, even although the Court would have been better satisfied if the verdict

had been the other way. If a new Judge was appointed, a special arrangement would be made for the salary and traveling allowance in the same manner as in the case of the late Judge. The committee (in addition to the arrangements for the same purpose, in reference to the other three Judges. Winness and always struggled against the mid-day adjournments for the purpose of being able to attend to his duties for him. Winness adhered to his former letters, already before the committee. He also concurred in all the observations contained in a letter signed "Anglicus," which appeared in the *Sydney Herald*, five months since (and a copy of which, as cut out of the paper, he handed to the committee). The Judge of the

Equity Court might be empowered by statutory provision to discharge the functions of a Common Law Judge in the absence of all the three Judges *en banc* on Circuit. As otherwise the three Judges would require no aid. Saw no reason why any superior title should be given to the Judge presiding in the separate Court, unless he was made a removable Minister like the Lord Chancellor. The title of the President of the Court of Equity and Insolvency would be sufficiently dignified. "Was opposed to the exercise of a summary jurisdiction, in certain cases, by the Judges of the Supreme Court. Trial by jury was more con-

senior to those of the judges, and the fact might be suspected of partiality; thus lowering the estimation of the judicial office. In case of Mr. Justice Shillibee being recalled from Moreton Bay care should be taken that the Government should not be obliged to appoint a Judge *without his consent* at that place, as was the case when the separate Court at Port Phillip was erected. The independence of the Judges would be a perfect farce if the Executive had this power of basing an obnoxious Judge, to Moreton Bay, on the ground that the pension fund should be proportionately augmented, or a provision should be

made that no Judge should be entitled to a pension upon permanent infirmity who should not have served as Judge for at least eight years.

Mr. ARTHUR TON HOLMBOE, M.L.L.A., barrister-at-law, had devised a plan for accelerating not only the despatch of business in the Supreme Court, but the general administration of justice throughout the colony. Had mentioned this plan to many eminent gentlemen who had approved of it; among others, the

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shoulder, branded. To be sold on 18th December.

